IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 3 of 1987
WITH
WEALTH TAX REFERENCE No 4 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF WEALTH TAX
Versus
C A DOSHI

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Appearance:
1. WEALTH TAX REFERENCE No. 3 of 1987
MR BB NAYAK FOR MR MANISH R BHATT for Applicant.
NOTICE SERVED for Respondent No. 1

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CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 24/09/2001

COMMON JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Mr.B.B.Nayak, learned Counsel for the revenue requests this Bench to take up these two references under the Wealth Tax Act, not withstanding the fact that one of us (Coram :D.A.Mehta, J) had appeared for the assessee before the Tribunal on the ground that these references are very old and they are pending for 14 years and more particularly on the ground that the controversy raised herein is already concluded by the decision of this Court in C.I.T. vs. C.A.Doshi smaller HUF reported in 115 Taxation 164. In view of the above specific request, we take up these references for final disposal.

2 The following question has been referred for the opinion of this Court in Wealth Tax Reference No.3 of 1987 in respect of the assessment years 1977-78, 1979-80 and 1980-81 :

"Whether on the facts and in the circumstances of the case the Tribunal has not erred in law in giving the status of small H.U.F. to the assessee ?"

3 The following question has been referred for the opinion of this Court in Wealth Tax Reference No.4 of 1987 in respect of the assessment years 1978-79 and 1979-80 :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal has been right in law in holding that there was a HUF of Shri C.A.Doshi and his own unmarried daughter and consequently the wealth belonged to smaller H.U.F.?"

4 Mr.B.B.Nayak fairly points out that the controversy raised herein is already concluded in favour of the assessee in the assessee's own case which is reported in (1993) 115 Taxation 164. In view of the aforesaid decision we hold in both the references that the Tribunal was right in holding that there was an HUF of Mr. C.A.Doshi and his own unmarried daughter and consequently the wealth belonged to smaller H.U.F. Accordingly our answer to the questions in both these references is in the affirmative i.e. in favour of the assessee and against the revenue.

5 The reference stands disposed of accordingly with

no order as to costs.

Sd/- Sd/-
(M.S.Shah, J) (D.A.Mehta, J)

m.m.bhatt